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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA - FRESNO

| | |
|--|---------------------------------|
| WAYNE BILLINGSLEY, WAVA BILLINGSLEY) | CASE NO. 1: 02 CV 5853 REC DLB |
| AND CALIFORNIA AGRI SPRAYERS, INC.,) | |
| A California Corporation) | STIPULATION and ORDER TO VACATE |
|) | TRIAL DATE AND PRETRIAL DATE |
|) | AND TO RESET TRIAL DATE AND |
| Plaintiffs,) | PRETRIAL DATE |
|) | |
| vs.) | [Local Rule 78-230(g); 83-143] |
|) | |
| LOVELAND INDUSTRIES, INC. d.b.a.) | |
| UAP WEST, a Colorado Corporation and) | |
| DOES 1 through 50, inclusive) | |
|) | |
| Defendant(s)) | |
| _____) | |

COME NOW PLAINTIFFS WAYNE BILLINGSLEY, WAVA BILLINGSLEY AND CALIFORNIA AGRI SPRAYERS, INC. BY AND THROUGH THEIR ATTORNEY OF RECORD GERALD M. LEVERETT AND DEFENDANTS LOVELAND INDUSTRIES, INC. D.B.A. UAP WEST BY AND THROUGH THEIR ATTORNEYS OF RECORD GORDON & REES, KEVIN ALEXANDER AND J. L. SEAN SLATTERY, WHO STIPULATE TO VACATE THE CURRENT TRIAL DATE AND TO CONTINUE TRIAL IN THE WITHIN ACTION; AND WHICH STIPULATION PROVIDES:

BACKGROUND:

1. Plaintiffs Billingsleys, the owners of certain real property located in the County of Tulare, State of California more particularly referred to by Tulare County Tax Assessors' Numbers 338-070-006, 338-260-016, 338-070-005 and 338-070-006, being a portion of Section 32, Township 26 South, Range 26 East MDB&M.
2. The above referred to real property is devoted to agricultural purposes and specifically three separate almond orchards.
3. The orchards are owned by Plaintiff California Agri Sprayers, Inc., a California corporation. Plaintiffs Billingsleys are the owners of 100 percent of the shares of stock in California Agri-Sprayers, Inc.
4. Only one of the three orchards owned by the Plaintiffs is the subject of the Plaintiffs' action.
5. The parties have exchanged Expert Witness Disclosures and have commenced Expert Witness Discovery and Depositions.
6. Recently, however, factual developments regarding the subject orchard have occurred that may potentially affect the entire scope of this litigation.

7. Counsel and experts for both parties are currently attempting to determine how, if at all, the scope of this litigation will change as a result of the aforementioned factual developments.

8. Plaintiffs and Defendant believe that it is necessary to vacate the current trial date in order to conduct testing and further discovery as to the causes of the recent developments concerning the subject orchard and how, if at all, the scope of this litigation will change.

9. Plaintiffs and Defendant wish to avoid a multiplicity of actions; avoid the necessity of prosecuting and defending a separate action involving the death of the new almond trees; to avoid the time, cost and expenses in prosecuting and defending a new and separate action; to avoid potentially inconsistent results which could occur as a result of litigating two separate actions; and to make appropriate and economic use of the Court's time and resources.

STIPULATION

WHEREFORE, based upon the above facts the parties hereto stipulate to vacate the current trial date of September 27, 2005 to vacate the current Pretrial Conference date before the Honorable Dennis Beck and to reset the Pretrial Conference to September 23, 2005 at 1:30 p.m. in Courtroom 5 before the Honorable Dennis Beck, Magistrate Judge and further stipulate to reset the trial date to Tuesday, November 8, 2005 in Courtroom 1 at 9:00 a.m. before the Honorable Robert Coyle.

So stipulated.

Date: August 3, 2005

/s/ Gerald M. Leverett, Esq.
Wayne Billingsley, Wava Billingsley,
By Gerald M. Leverett, Esq.

Date: August 9, 2005

/s/ Gerald M. Leverett, Esq.
California Agri Sprayers
By Gerald M. Leverett, Esq.

Date: August 9, 2005

/s/J. L. Sean Slattery, Esq. /S/
Loveland Industries, Inc. d.b.a.
UAP West
By J.. L. Sean Slattery, Esq.

ORDER

The Court, having considered the Joint Stipulation of the parties hereto to vacate the current trial date, and GOOD CAUSE APPEARING, the Court hereby approves the Stipulation. The trial date of September 27, 2005 in the above referenced matter is hereby vacated and the current Pretrial Conference date is hereby vacated.

Trial in the within matter is reset to commence on Tuesday, November 8, 2005 at 9:00 a.m. in Courtroom 1 before the Honorable Judge Coyle. The Pretrial Conference is rest to Friday, September 23, 2005 at 1:30 p.m. in Courtroom 5, before the Honorable Dennis Beck, U. S. Magistrate Judge.

IT IS ORDERED.

DATE: August 15, 2005

/s/ Dennis L. Beck
DENNIS L. BECK
U.S. MAGISTRATE JUDGE